



POLICE DEPARTMENT

December 29, 2014

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Anzor Kurashvili
Tax Registry No. 936892
30 Precinct
Disciplinary Case Nos. 2013-9859 & 2013-10048

The above-named member of the Department appeared before me on July 22, 2014, charged with the following:

Disciplinary Case No. 2013-9859

1. Said Police Officer Anzor Kurashvili, on or about February 7, 2012, at 1300 hours, while assigned to the 30th Precinct and on duty in the vicinity of Broadway and West 150th Street, New York County, abused his authority as a member of the New York City Police Department, in that he stopped Person A without sufficient legal authority.

P.G. 212-11, Page 1, Paragraph 1 – STOP & FRISK

2. Said Police Officer Anzor Kurashvili, on or about February 7, 2012, at 1300 hours, while assigned to the 30th Precinct and on duty in the vicinity of Broadway and West 150th Street, New York County, abused his authority as a member of the New York City Police Department, in that he frisked Person A without sufficient legal authority.

P.G. 212-11, Page 1, Paragraph 2 – STOP & FRISK

3. Said Police Officer Anzor Kurashvili, on or about February 7, 2012, at 1300 hours, while assigned to the 30 Precinct and on duty in the vicinity of Broadway and West 150th Street, New York County, abused his authority as a member of the New York City Police Department, in that he searched Person A without sufficient legal authority.

P.G. 212-11, Page 1, Paragraph 3 – STOP & FRISK

Disciplinary Case No. 2013-10048

1. Said Police Officer Anzor Kurashvili, on or about February 7, 2012, while on-duty, while assigned to the 30th Precinct, in the vicinity of West 150th Street and Broadway, New York County, after being involved in a police encounter with Person A, did fail and neglect to make activity log entries about said encounter.

P.G. 212-08 – ACTIVITY LOGS

2. Said Police Officer Anzor Kurashvili, on or about February 7, 2012, while on-duty, while assigned to the 30th Precinct, in the vicinity of West 150th Street and Broadway, New York County, after stopping Person A, did fail and neglect to prepare a Stop, Question, and Frisk Report (UF-250).

P.G. 212-11 – STOP AND FRISK

The Department was represented by David Bernstein, Esq., Department Advocate's Office, and the Civilian Complaint Review Board was represented by Carrie Eicholtz, Esq. Respondent was represented by John Tynan, Esq., Worth, Longworth & London LLP. Respondent, through his counsel, entered a plea of Not Guilty in

Disciplinary Case No. 2013-9859. The Department made a motion to dismiss

Disciplinary Case No. 2013-10048. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Disciplinary Case No. 2013-9859

Respondent is found Not Guilty of all three specifications.

The only evidence that CCRB presented was hearsay statements by Person A who did not appear to testify. Because Person A's statements were inconsistent and not subject to cross-examination, CCRB failed to meet its burden of proof.

Disciplinary Case No. 2013-10048

It is recommended that the Department's Motion to Dismiss be granted.

The Department Advocate moved to dismiss his case because of the lack of sufficient evidence.

SUMMARY OF EVIDENCE PRESENTED

The Civilian Complaint Review Board's Case

CCRB stated that the complainant, Person A, reported to One Police Plaza the morning of the trial, indicated he would not be taking the stand to testify and left.

CCRB also stipulated that when presented with a six-picture photo array containing Respondent's photograph and five fillers, Person A failed to identify Respondent as the person who stopped him.

Hearsay Statements by Person A

CCRB entered in evidence a compact disc recording of complainant Person A's two CCRB interviews from March 8, 2012 and March 30, 2012. (Civilian Complaint Review Board's Exhibit (CCRBX) 1; CCRBX 2A; CCRBX 2B).

The following is a summary of Person A's telephone interview with CCRB Investigator Rendon on March 8, 2012. (CCRBX 2A). On February 7, 2012, at approximately 1 p.m., Person A left his home and began walking to work. Person A was carrying two bags, a shoulder bag with books in it and a pair of pants and a shirt in a brown paper bag.

While he was walking, two uniformed police officers motioned for him to come towards them. Person A complied and walked towards 100 West 150th Street, where the

officers were standing. The officers then asked if he had been involved in a domestic dispute and informed Person A that he fit the description of a suspect. Later, one of the officers said they were stopping him for a drug related offense

One of the officers, described by Person A as being a Caucasian male in his early 30s, approximately 5'9, with a bald head, searched through both of Person A's bags.

The second officer, alleged to be Respondent, was described by Person A as a Caucasian male, in his 20s, approximately 5'8" with light colored hair. Person A stated after his bags were searched, Respondent began patting down his waist and ankle area. During the pat down Respondent told Person A to open his pants. Person A was wearing sweatpants and he pulled the elastic out. Respondent then told him to do the same with his underwear. Person A refused.

Person A told the officers he was going to be late for work. Respondent offered to call Person A's employer and explain why he was going to be late. Respondent then gave Person A his shield number, #10498, and the telephone number to the 30th precinct.

In his second interview with Rendon (CCRBX 2B), Person A began by saying his encounter with Respondent occurred on February 6, 2012. Person A stated that the first officer told him to place both his bags on the ground. The officer removed all the property from the paper bag, checked the bottom of the bag, and then replaced everything. He then unzipped the shoulder bag and looked through all the books. After searching through the bags the officer returned them to Person A.

The second officer, alleged to be Respondent, was described by Person A as being a Caucasian male in his late 20s, with a medium build and thick black hair. Person A stated Respondent began to pat him down. He started at his ankles and worked his way

up to Person A's waistband. Respondent then asked to check "what's down there," referring to the inside of his pants and underwear. Person A complied and pulled open the waistband of his sweatpants and his underwear. He stated he remained exposed like this for a few seconds.

Person A also stated Respondent reached inside the two front pockets of his sweatshirt and the two side pockets of his sweatpants. He recalled that his sweatshirt pockets were empty and he had a metro card and some change in his sweatpants pockets.

At some point, an unmarked police vehicle carrying four plain clothed officers arrived at the scene of the incident. Person A said that he was detained for 20 minutes.

Respondent's Case

Respondent testified in his own behalf.

Respondent's Testimony

Respondent was a 9-year police officer with the Department assigned to the 30th Precinct's Street Narcotics Enforcement Unit. Respondent was born in the Republic of Georgia and speaks with a foreign accent. He is about 6'1" tall. His shield number is 10498.

Respondent testified that on February 7, 2012, he was assigned to an apprehension vehicle with Police Officer Rojas. On that day, he did not remember speaking to a male about a domestic incident nor did he fill out a Stop, Question, and Frisk report. He stated that he does not know Person A and did not remember stopping, frisking, or having any interactions with him.

On January 29, 2013, Respondent was interviewed by CCRB Investigator Rendon. In that interview, he told Rendon that on the day of the incident he was working a "set location", in the vicinity of Broadway and 152nd Street. Respondent explained a set is when an observation post watches an area and relays descriptions of drug transactions. He agreed that this location was within the vicinity where Person A was stopped.

FINDINGS AND ANALYSIS

CCRB charged that Respondent stopped, frisked, and searched Person A, on February 7, 2012, without sufficient legal authority.

The only evidence that CCRB presented were the hearsay statements from Person A's telephone and in-person interviews with CCRB. CCRB argued that these statements showed that Person A identified Respondent by shield number. Respondent stated he did not recollect having stopped anyone on February 7, 2012.

Person A's failure to identify Respondent casts doubt on his reliability as a witness. Moreover, in comparing Person A's two interviews, several significant inconsistencies come to light.

During his first telephone interview (CCRBX 2A), Person A stated that Respondent had asked him to pull forward the waistband of his underwear and that he had refused. However, in his second interview (CCRBX 2B), Person A stated that Respondent looked through his underwear and compelled Person A to expose his genitalia for several seconds.

Discrepancies and inconsistencies in Person A's descriptions of Respondent are also troubling. In his first telephone interview (CCRBX 2A), Person A described Respondent as having light hair. Then in his second interview (CCRBX 2B), Person A described Respondent as having thick black hair. Person A also said that Respondent was around 5'8" and Respondent is about 6'1". Additionally, there was never any mention of Respondent speaking with a thick accent in either of the two interviews.

One final discrepancy was the actual date of the incident. In his telephone interview (CCRBX 2A), Person A stated the incident occurred on February 7, 2012. In his second interview (CCRBX 2B), he stated the incident occurred on February 6, 2012.

Deprived of the benefit of assessing Person A while cross-examined on his inconsistent statements and his inability to identify Respondent, this Court cannot consider the hearsay evidence presented by CCRB sufficient to meet its burden of proof.

Regarding this same incident, the Department initially charged that Respondent failed to make activity log entries and failed to prepare a Stop, Question, and Frisk report.¹ However, the Department moved to dismiss those charges citing a lack of sufficient evidence.

Accordingly, Respondent is found Not Guilty of all Specifications.

APPROVED

FEB 02 2013

WILLIAM J. BRATTON
POLICE COMMISSIONER

Respectfully submitted,



Amy J. Porter
Assistant Deputy Commissioner – Trials

¹ Case No. #2013-10048.